



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Group Art Unit: 3627

THIRU SRINIVASAN

Examiner: Kramer, James A.

Serial No.: 09/471,696

Filed: December 23, 1999

For: METHOD AND SYSTEM FOR AUCTIONING A PRODUCT
ON A COMPUTER NETWORK

Attorney Docket No.: 1649 (USW 0546 PUS)

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

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Sir:

This is an Appeal Brief for the appeal from the final rejection of claims 1-5, 8-9, 11-17, and 21-23 of the final Office Action mailed May 24, 2005 for the above-identified patent application.

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I. REAL PARTY IN INTEREST

The real party in interest is Qwest Communications International Inc. ("the Assignee"), a corporation organized under the laws of Delaware, and having a place of business at 1801 California Street, Suite 3800, Denver, Colorado 80202. US West, Inc. merged with Qwest Communications International Inc. The original assignment to US West, Inc. was recorded on December 23, 1999, at reel 010481 and frame 0299.

II. RELATED APPEALS AND INTERFERENCES

The Board previously decided an appeal (Appeal No. 2003-1618) for this patent application. The Decision on Appeal for this appeal was mailed October 28, 2004. A copy of the Decision on Appeal is included in the Related Proceedings Appendix.

There are no other appeals or interferences known to the Applicant, the Applicant's legal representative, or the Assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1-5, 8-9, 11-17, and 21-23 are pending in this patent application. Claims 6-7, 10, 18-20, and 24 have been cancelled. Claims 1-5, 8-9, 11-17, and 21-23 have been finally rejected, are the subject of this appeal, and are reproduced in the attached Claims Appendix. Of the pending claims, claims 1, 11, and 21 are independent claims.

IV. STATUS OF AMENDMENTS

There were no amendments after the final Office Action.

V. SUMMARY OF CLAIMED SUBJECT MATTER

1. Independent Claim 1

Independent claim 1 recites a method of auctioning products on a computer network (16). (FIGS. 1 and 2; and page 1, lines 1-8; page 2, line 6 through page 3, line 27; and page 4, lines 3-8 and lines 13-23 of the Applicant's specification.)

The method includes placing a 1st sale product identifier (30) indicative of a 1st product for sale by a 1st seller (14) on a 1st auction site (22) which is hosted on the network (16) by a 1st auction site host (24) for a 1st auctioneer. A 2nd sale product identifier (30) indicative of a 2nd product for sale by a 2nd seller (14) is placed on a 2nd auction site (22) which is hosted on the network (16) by a 2nd auction site host (24) for a 2nd auctioneer. A desired product identifier (26) indicative of a product desired by a buyer (12) is placed on a scan site (18) which is hosted on the network (16) by a scan site host (20) for a 3rd auctioneer. (FIGS. 1 and 2; and page 2, line 6 through page 3, line 27; and page 4, line 13 through page 5, line 25 of the Applicant's specification.)

The scan site (18) monitors the auction sites (22) using electronic data interchange (EDI) messaging to compare the desired product identifier (26) on the scan site (18) with the sale product identifiers (30) on the auction sites (22). From the comparison between the desired product identifier (26) and the sale product identifiers (30) it is determined whether the product desired by the buyer (12) is for sale on any of the auction sites (22) by any of the sellers (14). (FIGS. 1 and 2; and page 2, line 6 through page 3, line 27; and page 5, line 26 through page 6, line 22 of the Applicant's specification.)

The auction sites (22) monitor the scan site (18) using EDI messaging to identify the desired product identifier (26) placed on the scan site (18) to enable the sellers (14) to

determine the product desired by the buyer (12). (FIGS. 1, 2, and 4; and page 1, line 22 through page 2, line 2; page 2, line 6 through page 3, line 27; page 6, lines 23-28; page 8, line 25 through page 9, line 18; page 10, lines 15 through page 11, line 20; and page 12, lines 20-25 of the Applicant's specification.)

2. Independent Claim 11

Independent claim 11 recites a computer network auctioning system (10). (FIGS. 1 and 2; and page 1, lines 1-8; page 2, line 6 through page 3, line 27; and page 4, lines 3-8 and lines 13-23 of the Applicant's specification.)

The system (10) includes a 1st auction host computer (24) hosting a 1st auction site (22) on a computer network (16) for a 1st auctioneer. The 1st auction site (22) has a 1st sale product identifier (30) indicative of a 1st product for sale by a 1st seller (14). The system (10) further includes a 2nd auction host computer (24) hosting a 2nd auction site (22) on the network (16) for a 2nd auctioneer. The 2nd auction site (22) has a 2nd sale product identifier (30) indicative of a 2nd product for sale by a 2nd seller (14). The system (10) further includes a scan host computer (20) hosting a scan site (18) on the network (16) for a 3rd auctioneer. The scan site (18) has a desired product identifier (26) indicative of a product desired by a buyer (12). (FIGS. 1 and 2; and page 2, line 6 through page 3, line 27; and page 4, line 13 through page 5, line 25 of the Applicant's specification.)

The scan host computer (20) monitors the auction sites (22) using EDI messaging in order to compare the desired product identifier (26) on the scan site (18) with the sale product identifiers (30) on the auction sites (22) and then determines from the comparison between the desired product identifier (26) and the sale product identifiers (30) whether the product desired by the buyer (12) is for sale on any of the auction sites (22) by any of the

sellers (14). (FIGS. 1 and 2; and page 2, line 6 through page 3, line 27; and page 5, line 26 through page 6, line 22 of the Applicant's specification.)

The auction host computers (24) monitor the scan site (18) using EDI messaging to identify the desired product identifier (26) placed on the scan site (18) in order to enable the sellers (14) to determine the product desired by the buyer (12). (FIGS. 1, 2, and 4; and page 1, line 22 through page 2, line 2; page 2, line 6 through page 3, line 27; page 6, lines 23-28; page 8, line 25 through page 9, line 18; page 10, lines 15 through page 11, line 20; and page 12, lines 20-25 of the Applicant's specification.)

3. Independent Claim 21

Independent claim 21 recites a method of auctioning merchandise on a computer network (16). (FIGS. 1 and 2; and page 1, lines 1-8; page 2, line 6 through page 3, line 27; and page 4, lines 3-8 and lines 13-23 of the Applicant's specification.)

The method includes placing sale identifiers (30) indicative of merchandise for sale by sellers (14) on auction sites (22) hosted by respective auction site hosts (24) on the network (16) for respective auctioneers. Desired identifiers (26) indicative of merchandise desired by buyers (12) are placed on a scan site (18) hosted on the network (16) by a scan site host (20) for another auctioneer. (FIGS. 1 and 2; and page 2, line 6 through page 3, line 27; and page 4, line 13 through page 5, line 25 of the Applicant's specification.)

The scan site (18) monitors the auction sites (22) using EDI messaging in order to compare the desired identifiers (26) on the scan sites (18) with the sale identifiers (30) on the auction sites (22). From the comparison between the desired identifiers (26) and the sale identifiers (30) it is determined whether merchandise desired by the buyers (12) is for sale on

the auction sites (22) by the sellers (14). (FIGS. 1 and 2; and page 2, line 6 through page 3, line 27; and page 5, line 26 through page 6, line 22 of the Applicant's specification.)

The auction sites (22) monitor the scan site (18) using EDI messaging to identify the desired identifiers (26) placed on the scan site (18) in order to enable the sellers (14) to determine the merchandise desired by the buyers (12). (FIGS. 1, 2, and 4; and page 1, line 22 through page 2, line 2; page 2, line 6 through page 3, line 27; page 6, lines 23-28; page 8, line 25 through page 9, line 18; page 10, lines 15 through page 11, line 20; and page 12, lines 20-25 of the Applicant's specification.)

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-5, 8-9, 11-17, and 21-23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over www.biddersedge.com (“Bidder’s Edge”) in view of www.monster.com (“Monster.com”) in further view of Microsoft Computer Dictionary (“MCD”).

VII. ARGUMENT

A. Claims 1-5, 8-9, 11-17, and 21-23 are Patentable under 35 U.S.C. § 103(a) over Bidder's Edge in view of Monster.com in further view of MCD

1. Background of the Claimed Invention

The Background Art section of the Applicant's specification describes typical Internet based auctions. In such auctions sellers place their merchandise for sale and buyers bid for the items to be auctioned. On the closing date, the auctioneer determines the winning buyer with the highest bid and informs the winning buyer of same. The auctioneer may then act as a clearinghouse thereafter to transfer the merchandise to the winning buyer in exchange for the bid. Buyers generally have an idea or a list of items that they would be interested in purchasing through an auction.

Typical Internet based auctions have two disadvantages as described in the Background Art section of the Applicant's specification. The noted disadvantages:

1. Buyers do not know when and which Internet auctions sites have the desired merchandise available for auction. As such, the buyers have to periodically watch the different Internet auction sites, almost on a daily basis, for the desired merchandise to determine when the desired merchandise becomes available for auctioning; and

2. Sellers do not, at least initially, know exactly the kind of demand for merchandise that they would like to sell. As such, typical Internet based auctions are supply driven and have no regard to the demand side of the equation. Sellers would place more merchandise for sale if they knew that

demand for the merchandise indicated that the sellers are likely to obtain a higher value by selling the merchandise through an auction than the value of holding onto the merchandise.

Accordingly, what is needed is a method and system for Internet based auctions in which the basic principles of supply and demand are followed more accurately.

2. The Claimed Invention

The claimed invention satisfies both of the above-described needs. The claimed invention is directed to auctioning products on a computer network. As set forth in representative independent claim 1, the claimed invention generally includes:

placing a 1st sale identifier indicative of a 1st product for sale by a 1st seller on a 1st auction site hosted on the network by a 1st auction site host for a 1st auctioneer;

placing a 2nd sale identifier indicative of a 2nd product for sale by a 2nd seller on a 2nd auction site hosted on the network by a 2nd auction site host for a 2nd auctioneer;

placing a desired identifier indicative of a product desired by a buyer on a scan site hosted on the network by a scan site host for a 3rd auctioneer;

monitoring the auction sites with the scan site using EDI messaging to compare the identifiers on the sites;

determining from the identifier comparison whether the product desired by the buyer is for sale on any of the auction sites by any of the sellers; and

monitoring the scan site with the auction sites using EDI messaging to identify the desired identifier placed on the scan site to enable the sellers to determine the product desired by the buyer.

3. **The Examiner's Reliance on Bidder's Edge, Monster.Com, and MCD**

The Examiner posited that Bidder's Edge discloses a method for monitoring a plurality of auction sites for products desired by buyers in which the desired products are entered into a scan site by the buyers. The Examiner noted that Bidder's Edge does not teach a method of scanning a database [i.e., the scan site] of desired products from the auction site [i.e., from either of the auction sites] in order to determine a product desired by the buyers.

The Examiner posited that Monster.com teaches a method of scanning a database [i.e., the scan site] of desired products from the auction site [i.e., either of the auction sites] in order to determine a product desired by the buyers. Particularly, the Examiner posited (page 3 of the final Office Action):

Monster.com teaches a job search system where companies (sellers) input jobs (products) that they have available. Job seekers (buyers) enter their qualifications/resumes to Resume City (scan site), if a job that meets their requirements is found they are notified. In addition, an HR representative from a company (seller) has access to 'Cruiter (auction site). **'Cruiter allows the HR representative to 1) post available jobs (products) and 2) create a profile of the ideal candidate.** 'Cruiter (auction site) can use the profile of the ideal candidate to search a list of current resumes in Resume City (scan site). 'Cruiter also runs automatic searches of Resume City when new resumes are entered to Resume City. When/if matching resumes are found the system delivers them to the HR representative (monster.com; Reference D; under heading: How will 'Cruiter work for me?). (Emphasis added.)

The Examiner further posited that Monster.com teaches that the HR representative is motivated to use 'Cruiter in order for companies (sellers) to find candidates (buyers) for their jobs (products) quickly and easily (citing monster.com; Reference D under heading Meet 'Cruiter).

The Examiner posited that it would have been obvious for sellers (company) to search the desired product database (Resume City) of Bidder's Edge in the manner taught by the 'Cruiter feature of Monster.com in order for the sellers (company) to find buyers (candidates) for their products (jobs) quickly and easily (citing monster.com; Reference D under heading Meet 'Cruiter).

The Examiner further noted that whether Resume City and 'Cruiter are hosted on the same network is not relevant as Bidder's Edge teaches cross network searching. The Examiner indicated that **the Examiner's reliance on Monster.com is to teach that two-way searching was known**. As such, the Examiner asserted that it is reasonable that one of ordinary skill in the art based on the teaching of Monster.com would have known to search the scan site of Bidder's Edge with the auction sites even though they are hosted on different computer networks.

The Examiner indicated that the combination of Bidder's Edge and Monster.com does not specifically teach the type of messaging used for monitoring and in particular electronic data interchange (EDI). The Examiner cited MCD for teaching that EDI is an old and well-known standard for transferring information between computers over a network.

4. The Applicant's Understanding of Bidder's Edge and Monster.com

Bidder's Edge does not teach or suggest monitoring a scan site (which indicates a product desired by a buyer) with an auction site in order to enable a seller to determine the product desired by the buyer. As such, Bidder's Edge does not teach or suggest monitoring the scan site with two or more auction sites in order to enable two or more sellers to determine the product desired by the buyer.

Monster.com provides two databases: 1) Resume City (i.e., a scan site) in which job seekers (buyers) post resumes; and 2) a jobs database (i.e., auction site) in which companies (sellers) post jobs. The general teachings of Monster.com include a job seeker searching the jobs database (auction site) to determine whether any jobs of interest are posted irrespective of whether the job seeker has posted a resume in Resume City (scan site). That is, the job seeker may search the jobs database without posting a resume in Resume City (scan site). If the job seeker has posted a resume in Resume City (scan site), the job seeker searches the jobs database (auction site) without either Resume City (scan site) or the jobs database (auction site) relying on the resume to perform the search.

Similarly, a company searches Resume City (scan site) to determine whether any resumes of interest are posted irrespective of whether the company has posted a job in the jobs database (auction site). That is, the company may search Resume City (scan site) without posting a job in the jobs database (auction site). If the company has posted a job in the jobs database (auction site), the company searches Resume City (scan site) without either the jobs database (auction site) or Resume City (scan site) relying on the job to perform the search. As such, thus far, Monster.com teaches two independent searchable sites: scan site (i.e., Resume City) and auction site (i.e., jobs database) in which the scan site (i.e., Resume City) is searchable by a company and the auction site (i.e., jobs database) is searchable by a job seeker.

Monster.com further teaches search functions related to "Swoop" (a search agent for the job seeker) and "Cruiter" (a search agent for the company). On behalf of the job seeker, Swoop automatically searches for jobs of interest posted in the jobs database (auction site). To this end, the job seeker creates a profile in Swoop of jobs which are of interest to the job seeker. Similarly, on behalf of the company, 'Cruiter automatically searches for resumes of interest posted in Resume City (scan site). To this end, the company creates a profile in 'Cruiter of job seekers which are of interest to the company.

However, Swoop searches the jobs database (auction site) on behalf of the job seeker irrespective of whether the job seeker has posted a resume in Resume City (scan site). That is, Swoop searches the jobs database (auction site) on behalf of a job seeker without either Swoop or the jobs database (auction site) relying on the resume of the job seeker posted in Resume City (scan site). Likewise, 'Cruiter searches Resume City (scan site) on behalf of the company irrespective of whether the company has posted a job in the jobs database (auction site). That is, 'Cruiter searches Resume City (scan site) on behalf of a company without either 'Cruiter or Resume City (scan site) relying on the job(s) of the company posted in the jobs database (auction site).

Monster.com does not teach or suggest that Swoop can be searched to seek job seekers nor does Monster.com teach or suggest that 'Cruiter can be searched to seek jobs. As such, Monster.com further teaches two independent searchable sites: scan site (i.e., Resume City) and auction site (jobs database) in which the scan site (i.e., Resume city) is automatically searchable by 'Cruiter on behalf of a company and the auction site (i.e., jobs database) is automatically searchable by Swoop on behalf of a job seeker.

Accordingly, Monster.com teaches a scan site (i.e., Resume City) which a company searches manually or automatically (with the use of 'Cruiter) to search for job candidates and Monster.com further teaches an auction site (i.e., jobs database) which a job seeker searches manually or automatically (with the use of Swoop) to search for jobs. The scan site (i.e., Resume City) does not monitor or search the auction site (i.e., the jobs database) nor does the auction site (i.e., the jobs database) monitor or search the scan site (i.e., Resume city).

As noted above in section VII(A)(3) of this Appeal Brief, the Examiner indicated that 'Cruiter is an "auction site" which allows the HR representative to 1) post available jobs and 2) create a profile of the ideal candidate; and 'Cruiter uses the profile of the ideal candidate

to search resumes in Resume City (scan site). As described above by the Applicant, ‘Cruiter does not allow companies to post available jobs. Rather, companies post available jobs in the jobs database (auction site). ‘Cruiter performs automatic searching of the jobs database (auction site) using an ideal candidate profile which is input to ‘Cruiter. As such, ‘Cruiter is not an “auction site” as posited by the Examiner.

As noted above in section VII(A)(3) of this Appeal Brief, the Examiner indicated that Monster.com is being relied upon to teach that two-way searching was known. The Applicant submits that Monster.com teaches *two one way searching* as opposed to *two-way searching* for the following reasons. Particularly, one of the two way searching is when a company searches Resume City (scan site) either manually or automatically (with the use of ‘Cruiter). Resume City (scan site) is not used to search the jobs database (auction site), Swoop, or ‘Cruiter. Thus, there is no two-way searching between Resume City (scan site) and any other site. Similarly, the other of the two way searching is when a job seeker searches the jobs database (auction site) either manually or automatically (with the use of Swoop). The jobs database (auction site) is not used to search Resume City (scan site), ‘Cruiter, or Swoop. Thus, there is no two-way searching between the jobs database and any other site.

5. The Claimed Invention Compared to the Cited Art

The claimed invention involves two-way searching in that a scan site searches two auction sites and the two auction sites search the scan site. Bidder’s Edge teaches one of the two-way searches, namely, a scan site searching two auction sites. Monster.com teaches two way one searches, namely, (i) a manual or automatic (with the use of ‘Cruiter) search by a company of Resume City (scan site) and (ii) a manual or automatic (with the use of Swoop) search by a job seeker of the jobs database (auction site). As such, Monster.com does not teach or suggest two-way searching between two sites of as claimed.

Thus, Monster.com teaches nothing more than what is taught by Bidder's Edge in regards to one way searching. As such, there is no motivation to modify Bidder's Edge with Monster.com in the manner as suggested by the Examiner because both teach one way searching.

Further, the Applicant posits that the scan site (Resume City) of Monster.com is an auction site (as claimed) in that sellers (i.e, job seekers) post their resumes (identifiers indicative of products for sale) to Resume City and that the auction site (jobs database) of Monster.com is a scan site (as claimed) in that buyers (i.e., companies) post ideal job candidates (identifiers indicative of desired products) to the jobs database. As such, there would be no motivation to modify Bidder's Edge with Monster.com because, especially in this case, both teach one-way searching of auction sites (e.g., Resume City) by a scan site (e.g., the jobs database).

Thus, the Applicant respectfully submits that independent claims 1, 11, and 21 are patentable under 35 U.S.C. § 103(a) over Bidder's Edge in view of Monster.com in further view of MCD. Claims 2-5, 8-9, 12-17, and 22-23 depend from one of independent claims 1, 11, and 21 and includes the limitations of their base claim. Thus, the Applicant respectfully submits that claims 2-5, 8-9, 12-17, and 22-23 are patentable under 35 U.S.C. § 103(a) over Bidder's Edge in view of Monster.com in further view of MCD.

CONCLUSION

In view of the foregoing, the Applicant respectfully requests that the Board rules that claims 1-5, 8-9, 11-17, and 21-23 are patentable under 35 U.S.C. § 103(a) over the cited art.

Respectfully submitted,

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Enclosure - Appendices

VIII. CLAIMS APPENDIX

1. A method of auctioning products on a computer network, the method comprising:

placing a first sale product identifier indicative of a first product for sale by a first seller on a first auction site which is hosted on the computer network by a first auction site host for a first auctioneer;

placing a second sale product identifier indicative of a second product for sale by a second seller on a second auction site which is hosted on the computer network by a second auction site host for a second auctioneer;

placing a desired product identifier indicative of a product desired by a buyer on a scan site which is hosted on the computer network by a scan site host for a third auctioneer;

monitoring the auction sites with the scan site using electronic data interchange messaging in order to compare the desired product identifier on the scan site with the sale product identifiers on the auction sites;

determining from the comparison between the desired product identifier and the sale product identifiers whether the product desired by the buyer is for sale on any of the auction sites by any of the sellers; and

monitoring the scan site with the auction sites using electronic data interchange messaging to identify the desired product identifier placed on the scan site in order to enable the sellers to determine the product desired by the buyer.

2. The method of claim 1 further comprising:

notifying the buyer when the product desired by the buyer is for sale on an auction site by a seller.

3. The method of claim 2 wherein:

notifying the buyer includes notifying the buyer using electronic mail.

4. The method of claim 1 wherein:

each of the product identifiers includes a category product identifier, wherein comparing the desired product identifier with the sale product identifiers includes comparing the category product identifier on the scan site with the category product identifiers on the auction sites.

5. The method of claim 1 wherein:

each of the product identifiers includes a description product identifier, wherein comparing the desired product identifier with the sale product identifiers includes comparing the description product identifier on the scan site with the description product identifiers on the auction sites.

8. The method of claim 2 further comprising:

placing a bid from the buyer to an auction site for the product desired by the buyer.

9. The method of claim 2 further comprising:

removing the desired product identifier from the scan site in response to the buyer being notified that the product desired by the buyer is for sale on an auction site by a seller.

11. A computer network auctioning system comprising:

a first auction host computer hosting a first auction site on a computer network for a first auctioneer, wherein the first auction site has a first sale product identifier indicative of a first product for sale by a first seller;

a second auction host computer hosting a second auction site on the computer network for a second auctioneer, wherein the second auction site has a second sale product identifier indicative of a second product for sale by a second seller; and

a scan host computer hosting a scan site on the computer network for a third auctioneer, wherein the scan site has a desired product identifier indicative of a product desired by a buyer, wherein the scan host computer monitors the auction sites using electronic data interchange messaging in order to compare the desired product identifier on the scan site with the sale product identifiers on the auction sites and then determines from the comparison between the desired product identifier and the sale product identifiers whether the product desired by the buyer is for sale on any of the auction sites by any of the sellers;

wherein the auction host computers monitor the scan site using electronic data interchange messaging to identify the desired product identifier placed on the scan site in order to enable the sellers to determine the product desired by the buyer.

12. The system of claim 11 wherein:

the scan host computer is further operable to notify the buyer when the product desired by the buyer is for sale on an auction site by a seller.

13. The system of claim 12 wherein:

the scan host computer notifies the buyer using electronic mail.

14. The system of claim 12 wherein:

the scan host computer is operable for placing a bid from the buyer to an auction site for the product desired by the buyer.

15. The system of claim 12 wherein:

the scan host computer is operable for removing the desired product identifier from the scan site in response to the buyer being notified that the product desired by the buyer is for sale on an auction site by a seller.

16. The system of claim 11 wherein:

each of the product identifiers includes a category product identifier, wherein the scan host computer compares the category product identifier on the scan site with the category product identifiers on the auction site sites.

17. The system of claim 11 wherein:

each of the product identifiers includes a description product identifier, wherein the scan host computer compares the description product identifier on the scan site with the description product identifiers on the auction sites.

21. A method of auctioning merchandise on a computer network, the method comprising:

placing sale identifiers indicative of merchandise for sale by sellers on auction sites hosted by respective auction site hosts on the computer network for respective auctioneers;

placing desired identifiers indicative of merchandise desired by buyers on a scan site hosted on the computer network by a scan site host for another auctioneer;

monitoring the auction sites with the scan site using electronic data interchange messaging in order to compare the desired identifiers on the scan sites with the sale identifiers on the auction sites;

determining from the comparison between the desired identifiers and the sale identifiers whether merchandise desired by the buyers is for sale on the auction sites by the sellers; and

monitoring the scan site with the auction sites using electronic data interchange messaging to identify the desired identifiers placed on the scan site in order to enable the sellers to determine the merchandise desired by the buyers.

22. The method of claim 21 further comprising:

notifying buyers which auction sites the sellers are selling the merchandise desired by the buyers when the merchandise desired by the buyers are for sale on the auction sites by the sellers.

23. The method of claim 22 further comprising:

notifying the buyers of the current bid of the merchandise desired by the buyers for sale on the auction sites by the sellers.

IX. EVIDENCE APPENDIX

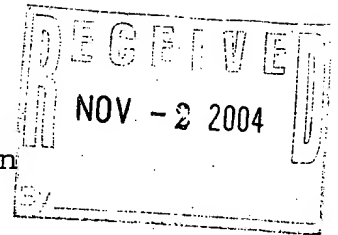
NONE.

X. RELATED PROCEEDINGS APPENDIX

1. A copy of the Decision on Appeal (mailed October 28, 2004) in which the Board previously decided an appeal (Appeal No. 2003-1618) for this patent application (09/471,696) is included herewith.



The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

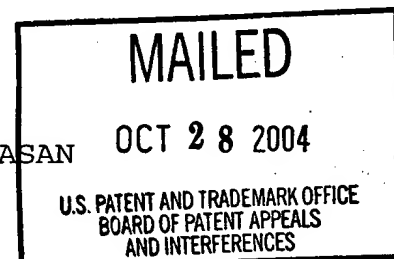


Paper No. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte THIRU SRINIVASAN



Appeal No. 2003-1618
Application 09/471,696¹

ON BRIEF

Before JERRY SMITH, BARRETT, and FLEMING, Administrative Patent Judges.

BARRETT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the final rejection of claims 1-9, 11-19, and 21-23.

We reverse.

¹ Application for patent filed December 23, 1999, entitled "Method and System for Auctioning a Product on a Computer Network."

BACKGROUND

The invention relates to auctioning a product on a computer network which includes an auction site and a scan site. Buyers place a product identifier indicative of a product desired by the buyer on the scan site. The auction site has a sale product identifier indicative of a product for sale by a seller. The auction site is monitored by the scan site to determine whether a product desired by the buyer is for sale and, if so, the buyer is notified. The scan site may be monitored by the auction site for the products desired by the buyers so that sellers know what products are in demand.

Claim 1 is reproduced below.

1. A method of auctioning a product on a computer network having an auction site and a scan site, wherein the auction site has a sale product identifier indicative of a product for sale by a seller, the method comprising:

placing a desired product identifier on the scan site of the computer network, the desired product identifier indicative of a product desired by the buyer;

monitoring the auction site with the scan site;

comparing the desired product identifier on the scan site with the sale product identifier on the auction site;

determining from the comparison between the desired product identifier and the sale product identifier whether the product desired by the buyer is for sale on the auction site by the seller; and

monitoring the scan site with the auction site to identify the desired product identifier place on the scan site in order to enable the seller to determine the product desired by the buyer.

THE REFERENCES

The examiner relies on the following references:

McGovern et al. (McGovern) 5,978,768 November 2, 1999

www.biddersedge.com, "Bidder's Edge - Your Auction Guide,"
archived from December 12, 1998 ("Bidder's Edge").

THE REJECTION

Claims 1-9, 11-19, and 21-23 stand rejected under 35 U.S.C.
§ 103(a) as being unpatentable over Bidder's Edge and McGovern.

We refer to the final rejection (Paper No. 5) (pages
referred to as "FR__") and the examiner's answer (Paper No. 10)
for a statement of the examiner's rejection, and to the appeal
brief (Paper No. 9) (pages referred to as "Br__") and reply brief
(Paper No. 11) (pages referred to as "RBr__") for a statement of
appellant's arguments thereagainst.

OPINION

The examiner finds (FR2) that Bidder's Edge discloses the
subject matter of claim 1 except for the last limitation of
"monitoring the scan site with the auction site to identify the
desired product identifier placed on the scan site in order to
enable the seller to determine the product desired by the buyer."
Appellant agrees and acknowledges that the Bidder's Edge Web site
containing a database is similar to the claimed scan site and the
auction Web site of Bidder's Edge is similar to the claimed
auction site (RBr2). The examiner finds that McGovern teaches a

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job search system where companies (sellers) input jobs (products) that they have available; job seekers (buyers) search for jobs they are interested in; and companies (sellers) search for jobs sought by job seekers (buyers) to determine which jobs (products) are desired by job seekers (buyers), referring to column 18, lines 39-51 (FR3). The examiner concludes that it would have been obvious to one of ordinary skill in the art to search the desired product database of Bidder's Edge as taught by McGovern in order for sellers to determine what buyers want (FR3).

Appellant argues that McGovern teaches that companies (sellers) can search from a Web site (i.e., an auction site) a database (i.e., a scan site) having jobs (products) desired by job seekers (buyers) to determine which jobs (products) are desired by the job seekers (buyers) (Br8). As a result, the hiring contact directly monitors the database of jobs from the Web site using a keyword search. It is argued that, assuming that it would have been obvious to combine the search system of McGovern to search the auction system of Bidder's Edge, McGovern teaches a configuration where the seller would directly monitor the product database of Bidder's Edge by performing a manual keyword search, whereas the claims require "monitoring the scan site with the auction site" (Br9).

The examiner responds that McGovern teaches a two-way search where job seekers can search a first database of available jobs

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and companies can search a second database of resumes and this two-way search feature would have suggested allowing the auction sites to search the database of Bidder's Edge in order to optimize the matching of buyers and sellers (EA4). The examiner asserts that the references suggest searching or monitoring the database of Bidder's Edge from the auction sites, rather than interacting directly with the database (EA4). The examiner states that the limitation of "monitoring" does not require an automatic process (EA5).

Appellant replies that the claims require the auction site (as opposed to the seller) monitoring the scan site to identify the desired product identifier in order to enable the seller to determine the product desired by the buyer and, as a result, solves the problem of sellers having to monitor various scan sites to determine when a product is desired by a buyer (RBr5). It is argued that McGovern allows company hiring contacts to search resumes in the database of the company computer, but does not allow searching from the Web site the database of jobs as stated by the examiner (RBr6). Appellant argues that "monitoring the scan site with the auction site" requires the auction site to do the monitoring as opposed to a company hiring contact performing a keyword search on a database stored in the company computer (RBr6-7).

Although appellant's arguments are not considered particularly strong, we disagree with the examiner's reading of McGovern. McGovern is not really two-way searching, as stated. It is true that the job seeker (buyer) can enter information pertaining to a job (product) the job seeker is interested in and the remote site program will automatically compare, on a daily basis, the entered position information with the information pertaining to positions uploaded from the companies (sellers) and notifies the job seeker (buyer) if a match is found (col. 15, line 59 to col. 16, line 16), where the job database is analogous to the "auction site." This is analogous to the claimed step of "monitoring the auction site with the scan site." The job seeker (buyer) can then hyperlink to the company's Web site or can forward his or her resume by e-mail, facsimile, or regular mail (col. 16, lines 16-25). The resumes for a particular job advertised by the company are managed by the company computer and can be searched by the hiring contact (col. 16, line 55 to col. 18, line 55). However, a company can only search resumes that it has received for a particular advertised position. The remote site which compares job seekers resumes to advertised jobs does not store a list of jobs which are sought by applicant. That is, there is no suggestion in McGovern that companies (sellers) search a database of jobs (products) that might be desired by job seekers (buyers), but for which the company has not

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advertised. Accordingly, McGovern does not involve two-way searching and does not suggest "monitoring the scan site with the auction site to identify the desired product identifier place on the scan site in order to enable the seller to determine the product desired by the buyer." Absent any evidence of a buyer driven auction or system, i.e., a system in which the seller looks for items wanted by a buyer, we conclude that the examiner has failed to establish a prima facie case of obviousness. The rejection of claims 1-9, 11-19, and 21-23 is reversed.

REVERSED

Jerry Smith
JERRY SMITH

JERRY SMITH
Administrative Patent Judge

Lee E. Barrett

LÉE E. BARRETT
Administrative Patent Judge

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